

**IN THE U.S. DISTRICT COURT FOR MARYLAND,
SOUTHERN DIVISION**

BEYOND SYSTEMS, INC.)	
)	
Plaintiff)	
v.)	Case No. PJM 08 cv 0921
)	
WORLD AVENUE USA, LLC, et al.)	
Defendants)	
_____)	

**DEFENDANT WORLD AVENUE USA, LLC’S AND WORLD AVENUE HOLDINGS,
LLC’S RESPONSE TO PLAINTIFF BEYOND SYSTEMS, INC.’S SUPPLEMENTAL
CERTIFICATION AT DE 669**

Defendants, WORLD AVENUE USA, LLC (“WAUSA”) and WORLD AVENUE HOLDINGS, LLC (“Holdings”) hereby respond to and oppose the Supplemental Certification filed by Plaintiff BEYOND SYSTEMS, INC. (“BSI”), and state:

BSI uses the Court’s letter at DE 661 as an invitation to circumvent the Court’s Order. On March 24th, the Court ordered the parties to certify the discovery issues that relate to the August Trial DE 631, and again, on April 20th, at DE 644. Defendants complied on April 20th. after efforts to confer with BSI were unsuccessful. *See* DE 645. Instead of complying, BSI filed a “Partial Certification” on April 23rd, and moved for an extension of time “until Monday, May 9th, for the filing of a further a [sic] certification pursuant to ECF 631 and 644.” *See* DE 647. Defendants opposed the extension the next business day. *See* DE 649. The Court denied the extension on May 2nd “for the reasons set forth in Defendant’s opposition.” *See* DE 656. The Court on May 10th asked for BSI’s comments on how 3 motions related to the August Trial. *See* DE 661. At Pages 2 through 8, BSI tries to certify new discovery issues for the August Trial as though the Court’s Order at DE 656 had never been entered. The Court should deny

consideration of these new issues,¹ and issue sanctions because -- once again -- a Court Order [DE 656] has been ignored and indeed, openly flouted. Moreover, BSI does not explain why any of the new discovery issues are relevant to the August Trial.

BSI's Supplemental Certification is also erroneous. BSI's Supplemental Certification incorrectly states at Page 1 that the Court ruled on "ECF 483, Memorandum and exhibits in support of Plaintiff's Motion to Compel Production of Documents, Set 2," stating "The court ruled on this motion at the hearing on March 24, 2011, directing WAUSA to produce documents in response to eight requests. ECF 631." BSI is wrong. The Court considered DE 482 at the March 24, 2011 hearing, not DE 483. BSI's cited docket entry, DE 631 states: "PAPERLESS ORDER granting in part Plaintiff's Motion to Compel ECF 482 for the reasons stated on the record during today's hearing." *Accord* DE 628 (Order scheduling Oral Argument March 24, 2011 on DE 482).

Second, BSI states that "ECF 584" "was resolved at the hearing on February 16, 2011, when the Court [Magistrate Judge Day] ruled on Defendant's motion to quash subpoenas, which also sought sanctions." BSI is wrong. DE 584 was not noticed for, considered at, or the subject of an Order at the February 16, 2011 hearing. See DE 597 (Order scheduling hearing for February 16th); DE 603-606 (Orders on Motions heard at February 16th hearing).

For the foregoing reasons, including not least the Court's prior Order, consideration of the new issues raised untimely by BSI should be denied.

¹ Defendants agree that the March 24, 2011 hearing discovery issue (DE 669, p. 2-4) was timely certified.

Dated: May 17, 2011.

Respectfully submitted,
Attorneys for World Avenue USA, LLC

GREENBERG TRAURIG, LLP

/s John L. McManus
Sanford M. Saunders, Jr., Esq.
USDC, MD #4734
saunderss@gtlaw.com
Nicoleta Burlacu, Esq.
BurlacuN@gtlaw.com
Admitted Pro Hac Vice
GREENBERG TRAURIG, LLP
2101 L Street, NW, Suite 1000
Washington, DC 20037
Telephone: 202-331-3100
Facsimile: 202-331-3101

--and--

Kenneth A. Horky, Esq.
Florida Bar No. 691194
horkyk@gtlaw.com
John L. McManus, Esq.
Florida Bar No. 0119423
mcmanusj@gtlaw.com
Admitted Pro Hac Vice
GREENBERG TRAURIG, P.A.
401 East Las Olas Boulevard, Suite 2000
Fort Lauderdale, FL 33301
Telephone: 954-765-0500
Facsimile: 954-765-1477